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**THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

DOROTHY WEHR, Individually, as) No. 06-7174-EDJ

1 DOROTHY WEHR, Individually, as)
2 Wrongful Death Heir, and as Successor-in-)
3 Interest to KENNETH WEHR, Deceased;)
4 and DARLENE LOUISE WEHR STARK,)
5 SHARON ANN WEHR STARWAS)
6 TSCHANN, ROBERT KENNETH)
7 WEHR, VINCENT FREDRICK WEHR,)
8 KENNETH STANFORD WEHR II as)
9 Legal Heirs of KENNETH WEHR,)
10 Deceased,)
11 Plaintiffs,)
vs.)
GENERAL ELECTRIC COMPANY,)
and DOES 1-300,)
Defendants.)

JOINT MOTION A
STAY PROCEED
ALTERNATIVE,
MANAGEMENT
CONFERENCE, A
[PROPOSED] OR
[PROPOSED ALT
TO CONTINUE

Pursuant to Civil L. R. 7-11 and 7-12, the following parties hereby stipulate to, and respectfully move the Court for, an Order extending time as set forth in the *Case Management Scheduling Order* filed November 20, 2006 (Document 2), for the following good cause:

25 On January 8, 2007, Defendant GENERAL ELECTRIC COMPANY filed a Notice to
26 Tag Along Action (Document 7) regarding the pending Multidistrict Litigation (“MDL”) in the
27 Eastern District of Pennsylvania, seeking among other things, to move Jurisdiction of this matter
28 to that District.

1 On July 29, 1991, the Judicial Panel on Multidistrict Litigation (“JPML”) entered an
 2 order transferring all asbestos personal injury cases pending in the federal courts to the United
 3 States District Court for the Eastern District of Pennsylvania, for coordinated pretrial
 4 proceedings pursuant to 28 U.S.C. § 1407. That order also applies to “tag-along actions,” or
 5 actions involving common questions of fact filed after January 17, 1991. Such actions are to be
 6 transferred to the eastern District of Pennsylvania as part of MDL 875, for coordinated pretrial
 7 proceedings.

8 The JPML has held that a district court has the authority to stay pending a transfer order.
 9 *In re Asbestos Products Liability Litigation*, 170 F. Supp. 2d 1348, 1349 n.1 (J.P.M.L. 2001)
 10 (“[T]hose courts concluding that such issues should be addressed by the transferee judge need
 11 not rule on them, and the process of 1407 transfer in MDL-875 can continue without any
 12 unnecessary interruption or delay.”)

13 The parties agree that it is likely that the JPML will transfer this matter to the Eastern
 14 District of Pennsylvania.

15 However, to date, the Clerk of the JPML has not entered a *Conditional Transfer Order*
 16 pursuant to JPML Rule 12(a) or filed an order to show cause why the action should not be
 17 transferred, pursuant to JPML Rule 13(b).

18 It is likely the dates set forth in the *Case Management Scheduling Order*, including the
 19 deadlines imposed by Federal Rules of Civil Procedure 26, will come to pass before the Clerk of
 20 the JPML acts.

21 The parties make this Motion on the grounds that a stay of this action would (a) promote
 22 judicial efficiency, (b) allow consistency in pretrial rulings, and (c) be most convenient to the
 23 parties.

24 Due to the pending action by the Clerk of the JPML, the parties hereby STIPULATE to
 25 and respectfully request the Court VACATE its *Case Management Scheduling Order* filed
 26 November 20, 2006 (Document 2) and that the Court issue an Order STAYING this action
 27 pending the outcome of the MDL Panel’s decision on the merits of the transfer.

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In the alternative, the parties hereby STIPULATE to and respectfully request that the dates set forth in the *Case Management Scheduling Order* filed November 20, 2006 (Document 2), vacated and continued pending the outcome of the JPML's decision on the merits of the transfer. Specifically, these deadlines in this matter include the **February 6, 2007** Rule 26 deadline to meet and confer, and file Joint ADR Certification, the **February 20, 2007** Deadline to complete Initial Disclosures, the **February 20, 2007** deadline to file the Joint Case Management Statement and the Case Management Conference currently set for **February 27, 2007**.

9 || Dated: January 11, 2007

BRAYTON PURCELL LLP

10 /s/ David R. Donadio
11 By: _____
12 David R. Donadio
Attorneys for Plaintiff

Dated: January 11, 2007 SEDGWICK, DETERT, MORAN & ARNOLD, LLP

[PROPOSED] ORDER TO STAY

IT IS HEREBY ORDERED that the hearing date and deadlines specified in the
Case Management Scheduling Order filed November 20, 2006 (Document 2), are hereby
VACATED and that this action is STAYED pending the outcome of the JPML's decision on the
merits of the transfer.

24 || Dated: January 16, 2007



Elizabeth D. Laporte
United States Magistrate Court Judge

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